

R E M A R K S

Claims 36 and 37 have been cancelled; and Claims 31 - 33, 38, 39 and 41 have been amended.

The claims have been amended to avoid the 35 U.S.C. §112, second paragraph, objections regarding Claims 31, 32, 35-36 and 41-43.

In addition, the claims have been amended to make it clear that it is the tooth traction surface which faces away from the axis AL that has an outward angulation relative to the axis AL to provide lateral stability and enhanced traction through the plane of a golf swing.

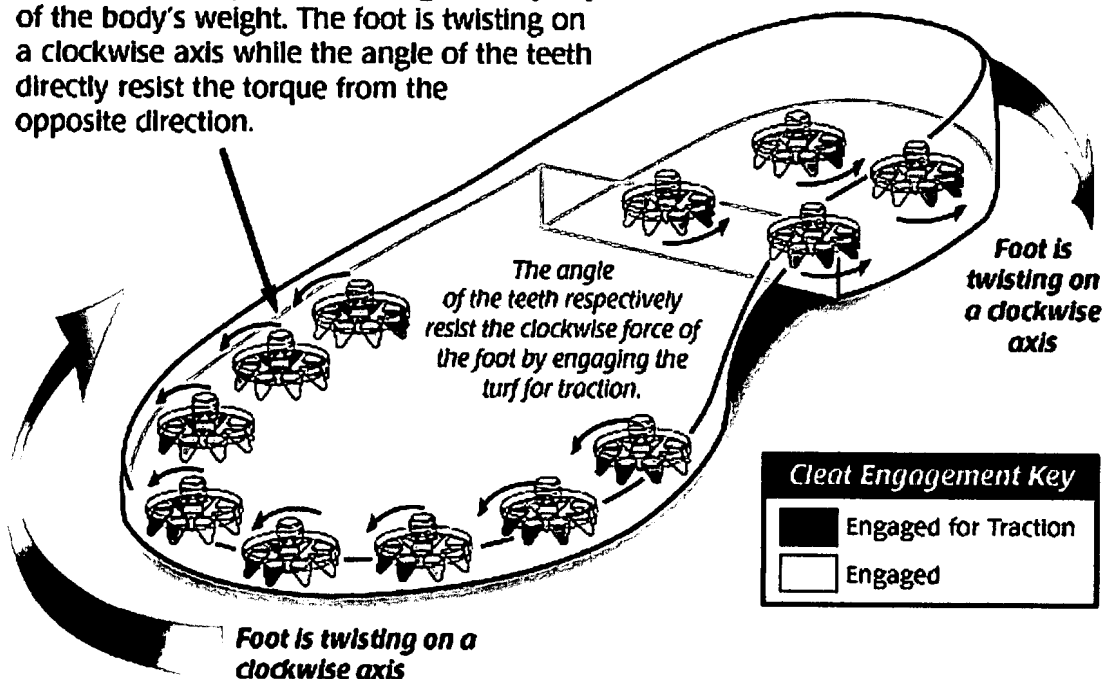
The rejection of Claims 39 - 42 as being anticipated by Bouyer (French Patent 2679421) is respectfully traversed.

In order to graphically demonstrate the significance of applicant's invention, the following two pages is a Cleat Engagement Analysis for the (1) right foot backswing and (2) left foot backswing:

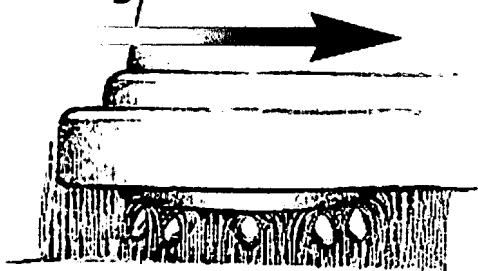
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Cleat Engagement Analysis

The right foot is planted bearing the majority of the body's weight. The foot is twisting on a clockwise axis while the angle of the teeth directly resist the torque from the opposite direction.



Direction of Force Being Resisted



Close Up

The teeth, being at an angle, are longer than merely vertical teeth and therefore are capable of engaging more turf.



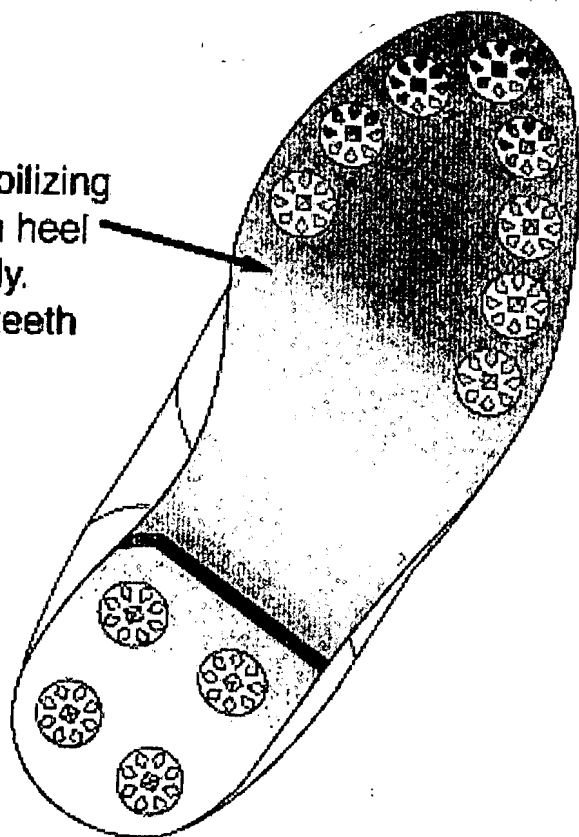
Backswing Front View



Backswing Side View

The drawing at the top of the page is an analysis of the golfer's right foot position during the backswing.

Left foot stabilizing
balance with heel
raised slightly.
Front spike teeth
engaged.



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The right foot being planted bearing the majority of the body's weight as the foot is twisting in a clockwise axis, the angle of the teeth directly resist a torque from the opposite direction as indicated by the arrows. Note in the lower left-hand close-up that the teeth being at an angle are longer than merely vertical teeth and therefore are capable of transversely engaging more turf. The red color key indicates which teeth are engaged more for traction and others which are engaged do not offer the same engagement in the condition shown for the backswing. As the golfer swings through the golf swing, the plane of the golf swing causes different traction teeth on different cleats of the golfer's shoe to become more or less engaged as the golfer proceeds from the backswing through hitting the ball and the follow-through. At the start of the downswing of a right-handed golfer, weight is transferred from the right foot to the left foot. The left foot becomes planted, bearing the majority of the body's weight. The left foot is twisting on a counterclockwise axis while the outward angulations of the teeth directly resist the torque from the opposite direction.

The teeth on the outer perimeter of the cleats located on the golfer's left-hand side of the toe of the left foot are fully engaged. The teeth on the golfer's right-hand side of the heel of the left foot are also fully engaged. In addition, the teeth on the cleats in the other remaining positions on the left foot are

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engaged, respectively, resisting the force encountered during the counterclockwise motion of the left foot.

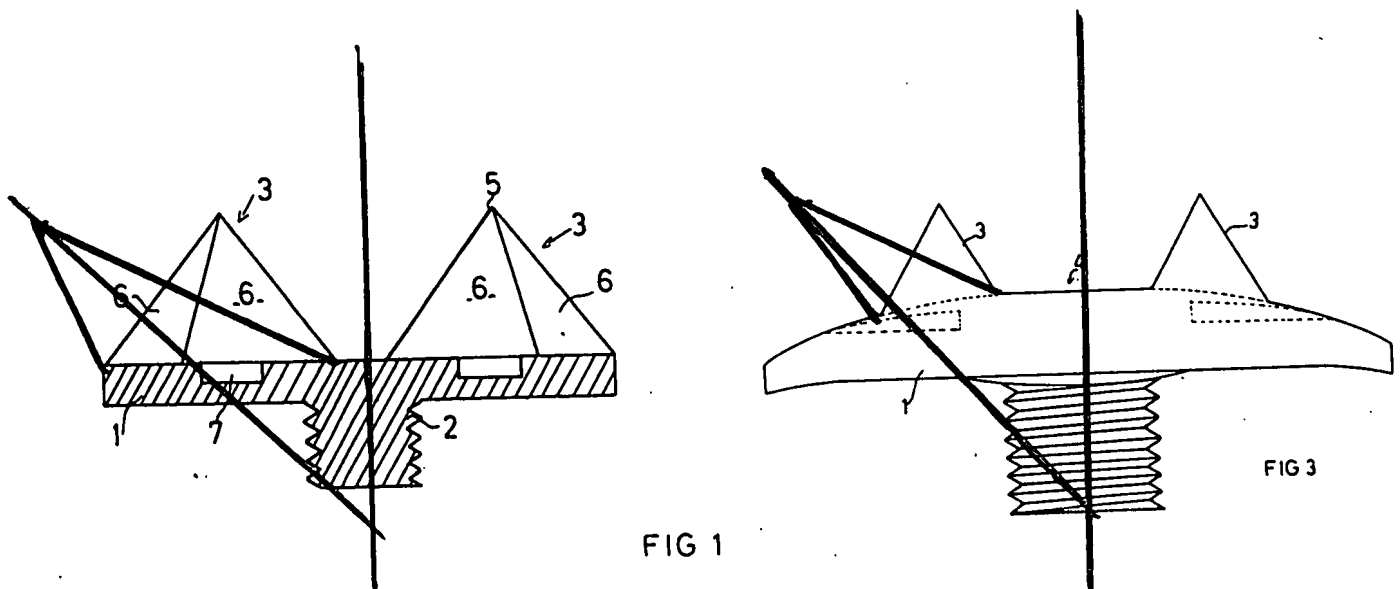
This remains constant through impact with the golf ball, at which time, the left foot remains fully engaged with the turf as the right foot pushes or lifts up onto its toe during the follow-through or finalization of the golf swing.

Thus, the circular array of outwardly angled traction teeth provide resistance to force or torque from any direction through the plane of the golf swing.

Similar diagrams can be produced to graphically demonstrate that different teeth of each shoe are more engaged as the golfer goes through the plane of the golf swing. It is believed that these suffice to demonstrate graphically the outward angulation of the teeth (as compared to merely vertical teeth) permits more grass or turf to be engaged and hence, more traction for given depth of the tooth from the outer face of the body member.

The idea that the tooth is longer for given depth when it is outwardly angled is further demonstrated by the following Figs. 1 and 3 of Bouyer (French Patent 2679421) upon which we have drawn in red ink exemplary teeth having the same depth as the Bouyer teeth 3 but with the outward angulation according to the present invention:

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It is clear that the outward angulation provides a longer tooth, one which crosses more blades of grass or turf and which provides more lateral stability and enhanced traction to the plane of a golf swing.

A similar rendition of Matulla (German Patent DE3811513) would reveal the same failure of this prior art to teach or suggest the invention.

The rejection of Claims 41 - 42 as being anticipated by Matulla is respectfully traversed. While Matulla shows a football boot screw stud of flexible formation on the base of which are two or more studs or bosses and "mud deflectors" in functional association therewith, Matulla does not show or suggest the applicant's invention.

In the first place, Matulla is not a golf shoe cleat. And in the second place, Matulla does not have a plurality of low- profile

traction teeth projecting in a circular array around the perimeter of the outer face of the main body member, each traction tooth having an axis AL and an outer traction surface which angle away from axis AL, with the outer traction surface having an outward angulation relative to the axis AL to enhance the lateral stability and traction through the plane of a golf swing.

The football cleats of Matulla have studs or bosses mounted thereon and mud deflectors (Figs. 2 and 2a) in association therewith.

The rejection of Claim 38 under 35 U.S.C. §103(a) as being unpatentable over Bouyer in view of either Kelly (US 5,321,902) or Jordan (US 4,014,114) is respectfully traversed. Claim 38 recites a plurality of pseudo pyramid-shaped teeth projecting around the perimeter of the main body member of a golf shoe cleat with each tooth having an axis ALT and an outwardly angled traction surface.

It will be noted that Claim 38 has been amended to recite that the shoe attachment means has an axis AL and that "each said pseudo pyramid-shaped teeth having an axis ALT and an outwardly angled traction surface which faces away from said axis AL and provides lateral stability and traction through the plane of a golf swing, said teeth being in a low profile to reduce damage to putting green surfaces," and that the body member has an anti-debris ring on the peripheral edge of the planar inner face. Bouyer, as has been shown above, fails to teach or suggest the basic tooth outward

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angularity of applicant: it is clear that Bouyer does not have a traction teeth having an outwardly angled traction surface which faces away from the axis of the mounting member. Instead of being pseudo pyramid-shaped tracking teeth, Bouyer's traction teeth are pyramid-shaped. As shown above, when applicant's outward angulation is applied to Bouyer's teeth and as recited in applicant's claims, Bouyer's teeth do then resemble applicant's claimed tooth construction.

Kelly or Jordan provides rings, but to characterize them as "anti-debris rings" is to give them a function which the two disclosures do not attribute to them. It is not clear from the disclosures of Kelly or Jordan that they would inherently serve as anti-debris rings. Based on the fact that neither Kelly nor Jordan functionalized their rims 24 or 27, applicant objects to the Examiner characterizing these elements 24 and 27 as "anti-debris rings". As noted above, it is not clear what function these elements perform or their use in the cited references. The Examiner is respectfully requested to point out where in these references, Kelly or Jordan, that these patentees characterize their elements 24 or 27 as anti-debris rings or anything approaching that function.

In paragraph 7 of the Office Action, the Examiner refers to Claim 38 again, but it is believed that the Examiner intended to

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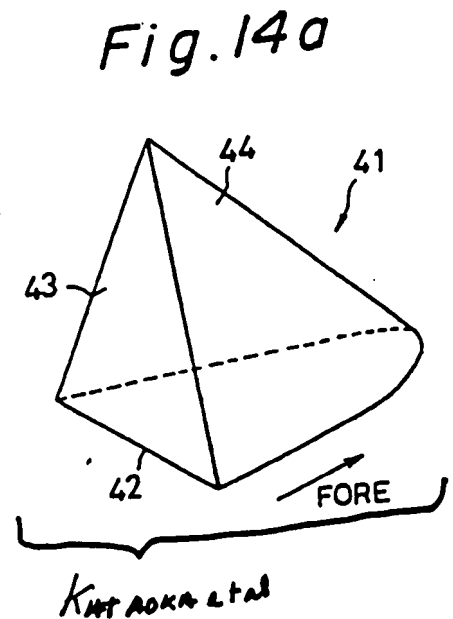
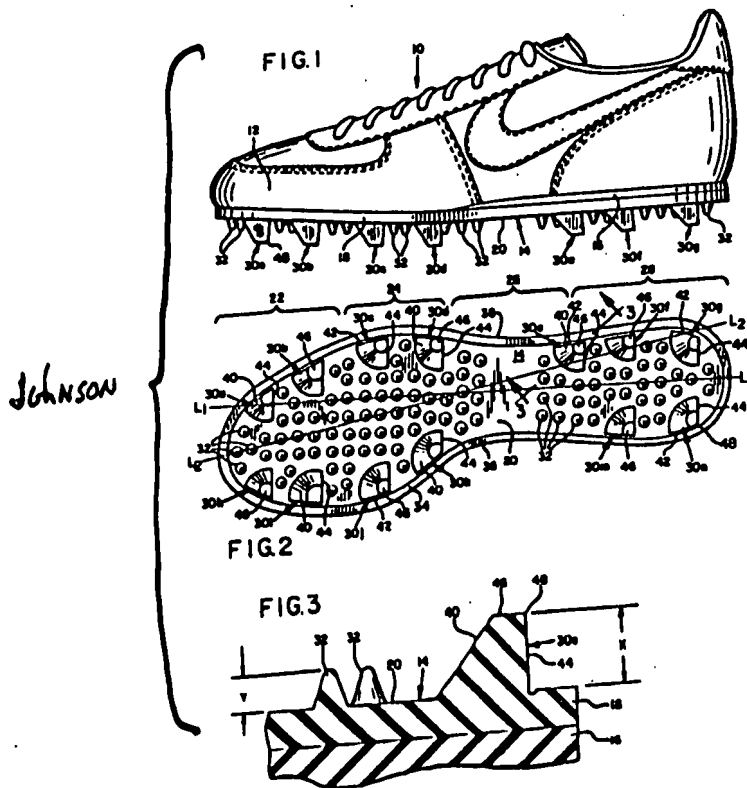
refer to Claim 39 and in the following argument, this is the assumption.

Claim 39 was rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to Claim 38 above, and further in view of either Johnson (US 4,327,503) or Kataoka (US 5,321,913).

Claim 39, like Claim 38, requires that the cleat have a plurality of traction teeth circumferentially spaced around the circular perimeter and that each traction tooth has an axis ALT and an outwardly angled traction surface which faces away from said axis AL to provide lateral stability and traction through the plane of a golf swing. Clearly, Bouyer does not have this feature; Bouyer modified by Jordan does not have this feature; and Bouyer modified by Johnson or Kataoka or Kelly combined does not have this feature.

Johnson and Kataoka are cited for their alleged pyramid-shaped teeth, but the Examiner is taking these references out of context. Johnson and Kataoka are reproduced for convenience of reference as follows:

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Note that the Examiner has selected bits and pieces of these references without regard to what they actually teach. In Kataoka, for example, note the fore and aft positioning of the tooth in relation to the entire sole of the shoe; likewise, in connection with Johnson. Neither reference teaches a tooth that has a traction surface facing away from the central axis and having an angulation as recited in applicant's claims. Consider putting an outward angulation on the outer traction surfaces of either Kataoka or Johnson.

Claims 33, 39, 41 and 42 were rejected under 35 U.S.C. §103(a) as being unpatentable over Softspikes (A unique Holiday Offer

article) or Bouyer in view of either Howard (US 2,095,095) or Matulla.

Softspikes, Bouyer, Howard and Matulla are reproduced below applicant, as follows, for convenience of reference:

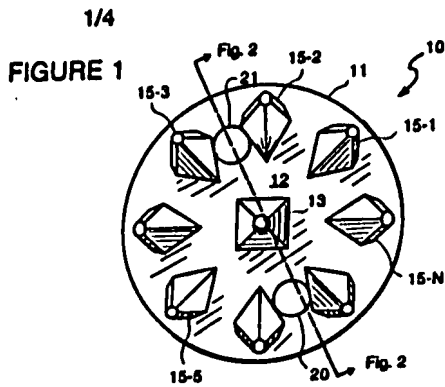
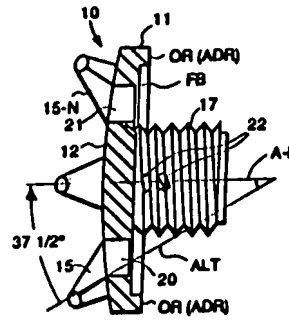
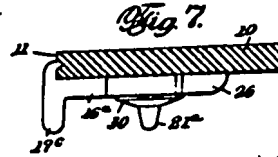
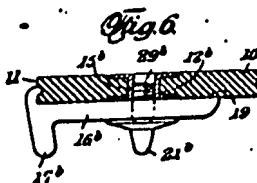
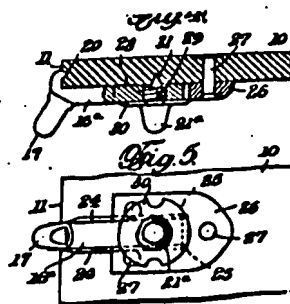
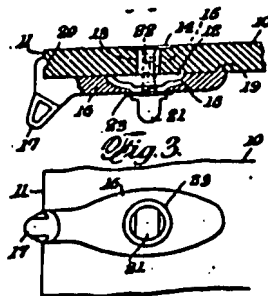
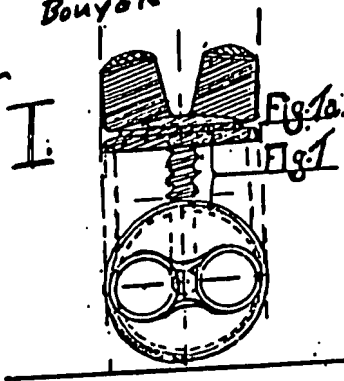
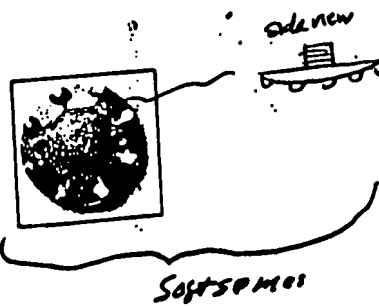
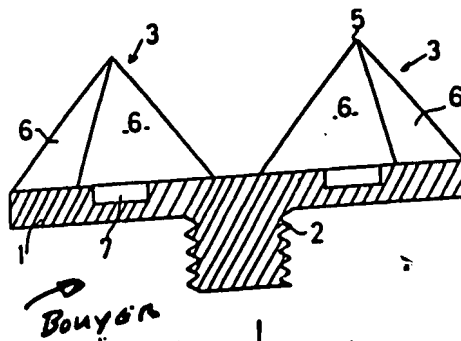


FIGURE 2

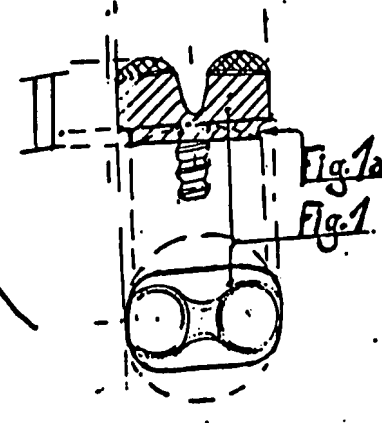


APPELLANT



Howe

Mr. TULLA



Claim 33 has been amended to include the limitation that the circular array of low-profile traction teeth projecting outwardly around the perimeter of the outer face of the cleat body have outer faces which face away from the axis AL of the mounting member and that each axis of the tooth ALT has an outward angulation relative to the axis AL to provide lateral stability and enhanced traction through the plane of a golf swing. This limitation is in Claims 39, 41 (by amendment) and 42. It is clear that the outer surface facing away from the axis of the threaded stud of Matulla does not appear to be angled outwardly and the lines drawn there to show this are the lines of the original reference.

Howard's spikes are conventional high-profile, steel spikes which may be outwardly directed as illustrated in Figure 7 or inwardly as shown in Figure 6. Nothing is said in the reference about there being a circular array of low-profile traction teeth projecting outwardly around the perimeter of the outer surface, with each traction tooth having an outer tracking surface facing away from the axis and with each traction surface providing lateral stability and enhanced traction through the plane of a golf swing. It should be appreciated that there are a plurality of applicant's cleats on a golf shoe and that each cleat has teeth which are spaced in a circular array around the axis AL of the cleat. The circular array of low-profile traction teeth are rotated about the axis of the stud when mounting in a shoe receptacle and end up with

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all the circular array of low-profile traction projecting outwardly at an angle ALT relative to the axis AL to provide lateral stability and enhanced traction "through the plane of a golf swing." In the sketches shown earlier herein, we show the engagement of certain traction teeth during a backswing. It will be appreciated that as the golfer proceeds through hitting the ball and the follow-through, different traction teeth are engaged at different times throughout the swing. That is why they are spaced in a circular array and why applicant has consistently maintained that the cumulative effect of a circular annular array of angled teeth provide the lateral stability and enhanced traction through the plane of the golf swing -- and not just the single traction tooth or a single angled tooth.

It does not follow from the citation of Howard or Matulla that the outward angulation of the Howard traction tooth surface face away from the axis of the threaded stud to increase traction and ensure against lateral slipping. Note that Howard provides outward angulation, vertical angulation or downward angulation and inward angulation.

Applicant respectfully submits that neither Softspikes nor Bouyer provides a nexus for the combination proposed by the Examiner and that neither Howard nor Matulla provides a requisite nexus. The nexus is provided solely by applicant's disclosure and nothing else.

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Claims 31, 32, 34, 35 and 37 (Claim 37 now cancelled) were rejected under 35 U.S.C. §103(a) as being unpatentable over Softspikes or Bouyer in view of either Howard or Matulla further in view of Kelly or Jordan.

Applicant has shown above how Softspikes and Bouyer fail to teach or suggest the invention and how the modification of Softspikes or Bouyer fails to satisfy applicant's claims. Moreover, these claims require the outer traction surface which faces away from the central axis, have an outward angulation, and Claim 32 has been amended to recite that the outward angulation is about $37\text{-}1/2^\circ$. The effect of such an angulation on Bouyer, for example, is demonstrated above and demonstrates how putting such an angulation on the teeth lengthens the tooth as well as providing more transverse surface which engages blades of grass better.

In applicant's graphic (enclosed above), the different teeth have different engagement with the turf through the plane of the golf swing as the golfer's weight shifts from the right foot to the left foot, and the Examiner has failed to take these considerations into account.

The rejections of Claims 36 and 38 under 35 U.S.C. §103(a) as being unpatentable over the references as applied to Claims 31, 32, 34, 35 and 37 further in view of Johnson or Kataoka is respectfully traversed. Claim 36 has been cancelled. In Claim 38, the cleat has a plurality of pseudo pyramid-shaped teeth projecting around

the perimeter of the main body member, each pseudo pyramid-shaped tooth having an axis ALT and an outwardly angled traction surface which faces away from the axis AL to provide lateral stability and traction through the plane of the golf swing, and the teeth being in a low profile to reduce damage to the putting green. The claim also requires that an anti-debris ring on the peripheral edge of the planar inner face of the golf cleat.

Applicant has demonstrated above how it is not obvious to modify Bouyer or Softspikes in the manner suggested by the Examiner and how the Examiner is lifting from different pieces of prior art, different features, not for what is taught by the references or suggested by the references but solely by what is taught by applicant. Note that in the later variety of rejections, the Examiner has selected bits and pieces from different bits and pieces of prior art, not by what is suggested or taught by the art but solely by what is taught by applicant's disclosure.

Softspikes and Bouyer do not teach or suggest angled teeth as recited in applicant's claims. Bouyer and Softspikes do not teach the shape of the teeth as taught by applicant. Bouyer and Softspikes do not teach an anti-debris ring. None of the references teach an anti-debris ring. Johnson and Kelly do not provide any teaching or disclosure as to what their annular rims are for.

Applicant notes that in its reversal of the Examiner in applicant's appeal, the Board of Appeals did not confirm the Examiner's reading of these references.

Claim 40 was rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to Claims 33, 39, 41 and 42 further in view of Johnson or Kataoka. Clearly, the teeth of Johnson or Kataoka, even if they be deemed to be pseudo pyramid-shaped, would, if given the angular inclination taught by applicant's disclosure, would not serve the same functions or purposes of applicant.

The rejection of Claims 41 - 43 under 35 U.S.C. §103(a) as being unpatentable over Dassler (US 4,375,728) in view of Jordan (US 4,014,114) is respectfully traversed. We cite the reasoning of the Board of Appeals in connection with a similar rejection made by the Examiner regarding the similar subject matter:

In rejecting claims under 35 U.S.C. §103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

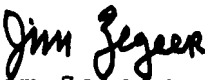
The appellant argues in the briefs that the applied prior art does not suggest the claimed subject matter. We agree.

All the claims under appeal require the claimed golf shoe cleat to include a plurality of teeth having a surface with an outward angulation to provide lateral stability and enhanced traction. While Dassler does teach a cleat having arms disposed at an outward angulation to provide a high degree of slip resistance, sole elasticity, and lateral stability, we fail to find any motivation in any of the applied prior art, to have modified the Softspikes' golf shoe cleat to have included such a feature absent the use of impermissible hindsight.² It follows that we cannot sustain the examiner's rejections of claims 1, 2, 5, 6, 9, 10, 15, 16 and 21.

² The use of such hindsight knowledge to support an obviousness rejection under 35 U.S.C. §103 is, of course, impermissible. See, for example, W. L. Gore and Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Clearly, the Examiner has erred again, and further and favorable reconsideration is respectfully requested.

Respectfully submitted,


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Attorney for Applicant

Attachment:

Version with Markings to Show Changes Made

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Date: June 7, 2002

In the event this paper is deemed not timely filed, the applicant hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account No. 26-0090 along with any other additional fees which may be required with respect to this paper.

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Claims 31, 32, 33, 38, 39 and 41 have been amended as follows:

-- 31. (Amended) A golf shoe cleat comprising a body member having an outer face and an inner face, shoe mounting member having an axis AL which is perpendicular to said inner face and projecting outwardly from said inner face and adapted to secure said cleat in a receptacle in said golf shoe upon rotation of said shoe mounting member in said receptacle,

a [plurality] circular array of shaped traction teeth projecting outwardly around the perimeter of said outer face, each traction tooth having an axis ALT and an outer traction tooth surface, each outer traction tooth surface and axis ALT having an outward angulation relative to said axis AL to provide lateral stability and enhanced traction through the plane of a golf swing and wherein said inner face has a peripheral edge spaced from said shoe mounting member and an anti-debris ring formed integrally with said body member and projecting from said inner face.

32. (Amended) A golf shoe cleat comprising a body member having a dome-shaped outer face and a planar inner face, a shoe attaching member projecting outwardly from said planar inner face having an axis AL perpendicular to said planar inner face, [an
5 annular anti-debris ring formed on the edge of said planar inner face,]

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10 a [plurality] circular array of shaped traction teeth projecting around the perimeter of said main body member, each traction tooth having an axis ALT, said axis ALT having an outward angulation relative to said axis AL to provide lateral stability and traction through the plane of a golf swing, said outward angulation being about 37-1/2°.

5 33. (Amended) A golf shoe cleat comprising a body member having an outer face and an inner face, shoe mounting member having an axis AL which is perpendicular to said inner face and projecting outwardly from said inner face and adapted to secure said cleat in a receptacle in said golf shoe upon rotation of said shoe mounting member about said axis in said receptacle,

10 a circular array of low profile traction teeth projecting outwardly around the perimeter of said outer face, each traction tooth having a traction surface which faces away from said axis AL, each traction tooth having an axis ALT and each axis ALT having an outward angulation relative to said axis AL to provide lateral stability and enhanced traction through the plane of a golf swing.

38. (Amended) A golf shoe cleat comprising a main body member having a dome-shaped outer face and a planar inner face, shoe attachment means having an axis AL, said shoe attachment means projecting outwardly from said inner face and adapted to secure

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5 said cleat in a receptacle in said golf shoe upon rotation of said shoe mounting member in said receptacle,

a plurality of pseudo pyramid-shaped teeth projecting around the perimeter of said main body member, each [said] pseudo pyramid-shaped [teeth] tooth having an axis ALT and an outwardly [angle] 10 angled traction surface [to provide] which faces away from said axis AL and provides lateral stability and traction through the plane of a golf swing, said teeth being in a low profile to reduce damage to putting green surfaces,

said body member having an anti-debris ring on the peripheral 15 edge of said planar inner face.

39. (Amended) A golf shoe cleat comprising a molded main body member having a dome-shaped outer face and a planar inner face,

a mounting member projecting vertically outwardly from said inner face and having an axis AL and adapted to secure said cleat 5 in a receptacle in said golf shoe upon rotation of said shoe mounting member in said receptacle,

said main body member having a circular perimeter,

a plurality of traction teeth circumferentially spaced around said circular perimeter of said main body member, each traction 10 tooth having an axis ALT and an [outward] outwardly angled outer traction surface which [face] faces away from said axis AL to

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provide lateral stability and traction through the plane of a golf swing.

41. (Amended) A golf shoe cleat comprising a body member
15 having an inner face and an outer face, a shoe-attaching member
projecting perpendicularly outwardly from said inner face and said
shoe-attaching member having an axis AL and adapted to secure said
cleat in a receptacle in said golf shoe upon rotation of said shoe
mounting member in said receptacle,

20 a plurality of low-profile traction teeth projecting around
the perimeter of the outer face of said main body member in a
circular array, each traction tooth having an axis ALT and outer
traction surface which are angled away from said axis AL, said
outer traction surface and having an outward angulation relative to
25 said axis AL to enhance lateral stability and traction through the
plane of a golf swing.